



DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments identified by Docket No. MSHA-2022-0038 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2022-0038.
2. *Fax:* 202-693-9441.
3. *Email:* petitioncomments@dol.gov
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452,

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401.

Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), Petitionsformodification@dol.gov (email), or 202-693-9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M-2022-012-C

Petitioner: UC Mining, LLC, 835 State Route 1179, Waverly, Kentucky, 42462

Mine: UC Mining, LLC Mine, MSHA ID No. 15-02709, located in Union County, Kentucky.

Regulation Affected: 30 CFR 75.1700, Oil and gas wells.

Modification Request: The petitioner requests a modification of 30 CFR 75.1700 to permit an alternate method as it pertains to leaving barrier pillars around coal and gas wells in order to mine through oil and gas wells in all mineable coalbeds.

The petitioner states that:

(a) The area consists of approximately 10,000 acres located in Henderson and Union Counties, Kentucky. The area is situated east of the town of Corydon.

(b) The coal mining method will be continuous mining machine, room and pillar. No secondary mining or pillar extraction will be conducted.

(c) The mineable coal seams in the reserve area are #11 with an average thickness of 4.5 feet and an average depth of 280 feet and #9 with an average thickness of 5 feet and an average depth of 400 feet.

(d) A worked-out #9 seam mine was previously mined directly adjacent (west) to the current area. These old works are assumed to be flooded; however, the inundation potential is zero as sufficient barrier pillars will be utilized. The worked-out #9 seam mine was mined around and mined through plugged wells under Petition for Modification (PFM) Docket No. M-1992-101-C, granted on February 2, 1993. The PFM was revoked on March 2, 2016, because the mine workings had been abandoned and the surface opening(s) to the mine sealed.

(e) There are approximately 300 documented wells within the proposed mining area. The wells date from the early 1940's through the present. The average depth of the wells is 2,540 feet.

(f) There are six main oil producing fields in the mining area, with principal production coming from the following four formations: Waltersburg Sandstone – 1,760 feet deep; Cypress Sandstone – 2,240 feet deep; Renault Limestone – 2,580 feet deep; and McClosky Lime – 2,620 feet deep.

The petitioner proposes the following alternative method:

(a) District Manager approval required:

(1) A safety barrier of 300 feet in diameter (150 feet between any mined area and a well) shall be maintained around all oil and gas wells until approval to proceed with mining has been obtained from the District Manager.

(2) The minimum safety barrier between any mined area and a well, based on the

geological nature of the strata and the functionality of the well as found in the mining area, shall be 70 feet in diameter for an abandoned well and 100 feet in diameter for an operational well.

(b) Procedures for cleaning out and preparing oil and gas wells prior to plugging or re-plugging:

(1) A diligent effort shall be made to completely clean out the well from the surface to at least 100 feet below the base of the lowest mineable coal seam. A diligent effort shall be made to remove all material from the entire diameter of the well, wall to wall, except for clearly defined surface casing.

(2) A diligent effort shall be made to prepare down-hole logs for each well. They shall consist of a caliper survey and log(s) suitable for determining the top, bottom, and thickness of all coal seams. A down-hole camera survey may be used in lieu of down-hole logs.

(3) If it is not possible to remove all the casing as provided in section (b)(1), appropriate steps shall be taken to ensure the annulus between the casing and well walls is filled with expanding cement and contains no voids. If the casing cannot be removed, it shall be cut or milled at all mineable coal seams. Perforations or rips shall be made 50 feet above and below the coal seams to be mined. However, if it is determined by the use of a casing bond log that the annulus at the coal seams to be mined is already adequately sealed with cement, then perforating or ripping shall not be required.

(4) If the cleaned-out well produces gas, or the uppermost hydrocarbon-producing stratum is within 500 feet of the lowest mineable coal seam, either a mechanical bridge plug or a cal seal plug shall be placed in competent stratum 100 feet below the lowest mineable coal seam, but above the top of the uppermost hydrocarbon-producing stratum.

(c) Procedures for plugging or re-plugging oil or gas wells to the surface:

(1) Expanding slurry cement or Class A cement shall be pumped down the well to form a plug which runs from at least 100 feet below the base of the lowest minable coal seam to the surface. Portland cement or a lightweight cement mixture may be used to fill the area from 100 feet above the top of the uppermost mineable coal seam to the surface. Steel turnings or other magnetic particles shall be embedded in the top of the cement near the surface; alternatively if the surface casing is present, it can serve as a permanent magnetic monument of the well. Where the hole cannot be marked with a physical monument (i.e., prime farmland), high resolution GPS coordinates shall be utilized.

(d) Procedures after approval has been granted by the District Manager to mine within the safety barrier or to mine through a plugged well:

(1) A representative of the operator, a representative of the Kentucky Division of Mine Safety (DMS), or the MSHA District Manager may request that a conference be conducted prior to mining through a plugged well. Upon receipt of any such request, the District Manager shall schedule such a conference. It shall be the responsibility of the party requesting the conference to notify other parties listed above within a reasonable time prior to the conference to provide opportunity for participation. The purpose of the conference shall be to review, evaluate, and accommodate any abnormal or unusual circumstance(s) related to the condition of the well or surrounding strata when such conditions are encountered.

(2) The District Manager shall be notified at least a week prior to mining through a well to provide an opportunity to have a representative present.

(3) When using continuous mining methods, drilage sights shall be installed at the last open crosscut near the place to be mined to ensure intersection of the well. The drilage sights shall not be more than 80 feet from the well.

(4) Firefighting equipment, including fire extinguishers, rock dust, and sufficient

fire hose to reach the working face area, shall be available when either the conventional or continuous mining method is used. The fire hose shall be located near the working face.

(5) Sufficient supplies of roof support and ventilation materials shall be available and located near the working face. In addition, an emergency plug and/or plugs, shall be available within the immediate area of the mine-through.

(6) Equipment involved in mining-through the well shall be checked for permissibility and serviced on the maintenance shift prior to mining-through the well. The methane monitor on the continuous mining machine involved in mining-through the well shall be calibrated on the maintenance shift prior to mining-through the well.

(7) When mining is in progress, tests for methane shall be made with a hand-held methane detector at least every 10 minutes from the time that mining with the continuous mining machine is within 30 feet of the well until the well is intersected and immediately prior to mining-through. During the actual cutting through process, no individual shall be allowed on the return side until mining-through has been completed and the area has been examined and declared safe.

(8) When the wellbore is intersected, all equipment shall be deenergized and the working place thoroughly examined and determined safe before mining is resumed. Any well casing shall be removed and no open flame shall be permitted in the area until adequate ventilation has been established around the wellbore.

(9) When using a continuous mining machine, the working place shall be free from accumulations of coal dust and coal spillages, and rock dust shall be placed on the roof, rib, and floor to within 20 feet of the face when mining-through the well.

(10) After a well has been intersected and the working place determined safe, mining shall continue inby the well a sufficient distance to permit adequate ventilation around the area of the wellbore.

(11) No person shall be permitted in the area of the mining-through operation except those actually engaged in the operation, company personnel, representatives of the miners, MSHA personnel, and Kentucky DMS personnel.

(12) The mining-through operation shall be under the direct supervision of a certified individual. Instructions concerning the mining-through operation shall be issued only by the certified individual in charge.

(13) MSHA personnel may interrupt or halt the mining-through operation when it is necessary for the safety of the miners.

(14) A copy of the decision and order approving this petition will be maintained at the mine and be available to the Secretary's representatives, miners' representatives, and miners.

(15) The operator shall file a plugging affidavit setting forth the persons who participated in the work, a description of the plugging work, and a certification by the petitioner that the well has been plugged as described.

(16) Within 30 days after the decision and order becomes final, the operator shall submit proposed revisions for its approved mine emergency evacuation and firefighting plan required by 30 CFR 75.1501. The operator shall revise the plans to include the hazards and evacuation procedures to be used for well intersections.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Song-ae Aromie Noe,

Director,

Office of Standards, Regulations, and Variances.